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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,302	09/30/2003	Thomas Flohr	P03,0334	5375

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PATENT DEPARTMENT
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EXAMINER

THOMAS, COURTNEY D

ART UNIT	PAPER NUMBER
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2882

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,302

Applicant(s)

FLOHR ET AL.

Examiner

Courtney Thomas

Art Unit

2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8 and 10-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8 and 10-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. In view of the Appeal Brief filed on 03/23/06, PROSECUTION IS HEREBY REOPENED. Reasons for allowance are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:


EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, claim 8 is dependent on itself (claim 8) and is therefore considered indefinite. Examiner additionally notes, claim 8 requires: "acquiring test images with only a partial rotation of a focus around an organ." Should claim 8 be amended to depend from independent claim 1 or 16, claim 8 would be objected to under 35 USC 112 fourth paragraph, as it would remove the limitation of "at least one rotation" found in independent claims 1 and 16. Appropriate correction is required based on the above observations.

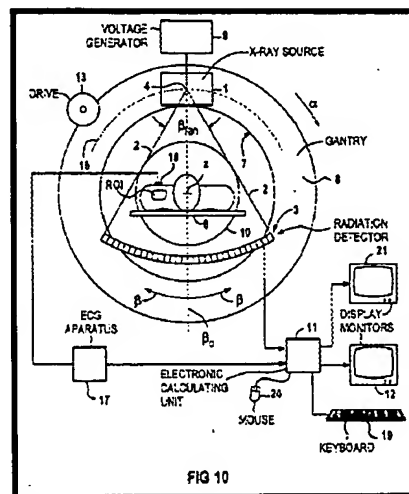
Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,2, 4-8 and 10-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Flohr et al. (U.S. Patent 6,381,487).



6.

Fig. 10 –Apparatus for Producing CT Images – U.S. Patent 6,381,487 to Flohr et al.

7. As per claims 1, 2 and 10-18, Flohr et al. disclose a method (and corresponding apparatus) for generating a computed tomography image of a periodically moving organ, comprising the steps of:

8. a) emitting an X-ray beam focus of an X-ray source and rotating at least the focus around the organ to irradiate the organ from a plurality of different directions and detecting X-rays in the X-ray beam attenuated by the organ at each of the directions, to obtain a plurality of sets of projection data of the organ (column 10, lines 20-31);

9. b) analyzing sets of projection data to determine whether the projection data in each test image were acquired during a rest phase or during a movement phase of one of the regions of the organ by detecting movement artifacts in an image region of each test region and designating projection data in respective test images that are free of movement artifacts as having been acquired during the rest phase of at least one of the regions (column 10, lines 32-34; column 11, lines 4-15; 36-41; column 12, line 56-column 13, line 14) and

Art Unit: 2882

10. c) reconstructing a diagnostic image of the organ using only projection data from test images acquired during the respective rest phase of the at least one of the regions of the organ (column 10, lines 35-39). Examiner notes: Fig. 10, shown above, illustrates a CT apparatus comprising a rotating gantry (8), an X-ray source (1), X-ray detector array (3), patient support (6), data processor (11), display (12), input device (19) and ECG unit (17) as required by independent claims 14, 15, 17 and 18.

11. As per claims 4-8, Flohr et al. disclose a method, further comprising detecting movement artifacts by detecting at least one of line artifacts and double contours in the respective test images (column 11, lines 4-15; 36-41).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Courtney Thomas whose telephone number is (571) 272-2496. The examiner can normally be reached on M - F (9 am - 5 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Glick can be reached on (571) 272 2490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2882

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Courtney Thomas
Examiner
Art Unit 2882



EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER